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May 2, 2003

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FCC - MAILROOM

Marlene H. Dortch, Secretary
Federal Communications Commission
Portals II
445 12th Street SW
Washington, DC 20554

Re: Comments and Counterproposal
MM Docket 03-56
Victoria and George West, Texas

Dear Ms. Dortch,

Transmitted herein is an original and 5 copies of a filing styled "Comments and Counterproposal" to be filed in the above captioned proceeding on behalf of M. C. Vargas.

Kindly file stamp one of the copies and return to this office in the enclosed self addressed stamped envelope.

Should there be any questions regarding the enclosed material, please contact this office.

Very truly yours,



F. W. Hannel, PE

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MB Docket No. 03-56

COMMENTS AND COUNTERPROPOSAL

As a counterproposal in this proceeding, M. C. Vargas is requesting that the Commission assign FM Channel 265A to the deserving community of Three Rivers, Texas as that community's second aural service and deny the augmentation of the existing service in Victoria, Texas as proposed in the Notice of Proposed Rulemaking.

² Victoria, Texas has a number of other FM assignments. See Section 73.207 of the Commission's Rules.

It is well settled that the Commission favors new aural service over the augmentation of existing service, as here, and that the proposal to add FM Channel 265A to Three Rivers, Texas occupies a higher priority than the augmentation of the existing service at Victoria, Texas.³ The addition of a second fulltime aural service occupies priority 2, while the augmentation of an existing service is evaluated under priority (4), other public interest considerations. Clearly, the proposal to add a second fulltime aural service to Three Rivers, Texas is to be preferred over the proposed augmentation of the existing service of Radio Station KEPG(FM).

The community of Three Rivers has a population of 1,878 persons and is located in Live Oak County which has a population of 12,309 persons. The assignment of FM Channel 265A to Three Rivers would provide that deserving community with a second aural service. The community of Three Rivers is not located within or near an urbanized area and the proposed assignment of FM Channel 265A to the community does not trigger any Section 307(b) concerns with regard to the proposed assignment.

As is shown in the attached engineering statement, FM Channel 265A can be assigned to Three Rivers, Texas in full compliance with all of the Commission's Rules including the minimum mileage separation requirements of Section 73.207 as well as in full compliance with the city grade illumination requirements of Section 73.315. A wide area exists for the location of a transmitter site that will comply with all of the Commission's Rules.

In view of the foregoing, it is respectfully requested that the Commission amend the FM Table of Allotments as follows:

City	Present	Proposed
Three Rivers, Texas	233C2	233C2, 265A

³ The FM Allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; (4) other public interest consideration. Co-equal weight is given to priorities (2) and (3). See *Revision of FM Assignment Policies and Procedures*, 90 FCC 2nd 88,92 (1982).

In view of the foregoing, it is respectfully requested that the Commission amend the FM Table of Allotments as follows:

City	Present	Proposed
Three Rivers, Texas	233C2	233C2, 265A

If the Commission assigns Channel 265A to Three Rivers, Texas the petitioner will apply for the channel and, when authorized, will promptly construct the facility at Three Rivers, Texas.

The undersigned certifies that the statements made in these Comments and Counterproposal are true and correct to the best of the petitioners knowledge and are made in good faith.

WHEREFORE, in accordance with the above, M. C. Vargas respectfully requests that Channel 265A be assigned to Three Rivers, Texas and that the proposal to delete the presently assigned FM Channel 265A at George West, Texas to allow Radio Station KEPG(FM) to augment its existing service be denied.

May 2, 2003

Respectfully Submitted,

By: M. C. Vargas
M. C. Vargas

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Engineering Statement

This firm has been retained by M. C. Vargas to prepare this engineering statement in support of a counterproposal in the above captioned proceeding. The Commission is seeking comments on a proposal to delete the presently assigned FM Channel 265A at George West, Texas to allow Radio Station KEPG(FM) to augment its existing service by upgrading to FM Channel 265C3. The petitioner is requesting that the Commission deny that proposal and assign FM Channel 265A to Three Rivers, Texas as that community's second aural service.

The community of Three Rivers, Texas is located in Live Oak County in south Texas. The city has a population of 1,878 persons and the county has a population of 12,309⁴ persons and the community is not located in an urbanized area and the 70 dbu contour will not penetrate an urbanized area.

The assignment of FM Channel 265A can be made to the community of Three Rivers, Texas at allotment reference coordinates N28-26-00, W98-09-18 in full compliance with the Commission's minimum mileage separation and city grade illumination requirements. The allotment site is 4 km southeast of Three Rivers, Texas, (US Atlas coordinates N28-27-35, W98-10-55), and a transmitter operating from this site will fully illuminate the entire city of Three Rivers with the required 70 dbu city grade coverage using the standard prediction methods as well as uniform earth assumptions. Attached as Exhibit E-1 is an FM Channel Study which shows that the assignment of FM Channel 265A at Three Rivers, Texas can be made in full compliance with the Section 73.207 of the Commission's Rules.

⁴ Populations are from the 2000 US Census.

The petitioner is requesting that the Commission amend the FM Table of Allotments for Three Rivers, Texas as follows:

City	Present	Proposed
Three Rivers, Texas	233C2	233C2, 265A

This proposal to add a second local service to the deserving community of Three Rivers, Texas is comparatively superior to the proposal to augment the existing service of Radio Station KEPG(FM) at Victoria, Texas. It is requested that this proposal to add a second aural service to Three Rivers, Texas be adopted and that the proposal to augment service at Victoria, Texas be denied.

The undersigned certifies, under penalty of perjury, that the foregoing statements are true, correct and complete to the best of his knowledge. My qualifications are a matter of record with the Commission.

Respectfully,



F. W. Hannel, PE

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FM Channel Study
FM Channel 265A

Exhibit E-1
N28-26-00 W98-09-18

Call Sign	State	City	Freq	Class	D/km	Sep	Clr
New	TX	Three Rivers	100.9 A		0	115	-111.9
	TX	GEORGE WEST	100.9 A		3.16	115	-111.8
	TX	VICTORIA	100.9 C3		112.83	142	-29.2
KEPG	TX	VICTORIA	100.9 A		115.03	115	0
KONO-FM	TX	HELOTES	101.1 C1		132.94	133	-0.1
KNCN	TX	SINTON	101.3 C1		91.37	75	16.4

All Distances in kilometers

CERTIFICATE OF SERVICE

I, Fred Hannel, do hereby certify that copies of the foregoing Comments and Counterproposal have been served by United States mail, postage prepaid this 2nd day of May, 2003, upon the following:

Sharon McDonald
Federal Communications Commission
Mass Media Bureau
Portals II, Room 3-A266
TW-A35
445 12th Street SW
Third Floor
Washington, D.C. 20024
(Via Federal Express to:
Federal Communications Commission
Office of the Secretary
236 Massachusetts Avenue, NE
Suite 110
Washington, DC 20002)

Harry C. Martin, Esq
Fletcher, Heald & Hildreth, PLC
1300 North 17th Street, 11th Floor
Arlington, VA 22209
(Counsel for Victoria Radioworks, Ltd.)
(Via certified, receipt requested, US Mail)



F. W. Hannel, PE